

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

FILED ELECTRONICALLY

CHERRI WALKER)	
)	
PLAINTIFF,)	
)	
v.)	CASE NO. 15-cv-377-TBR
)	
)	
LIFE INSURANCE)	
COMPANY OF NORTH AMERICA)	
)	
DEFENDANT.)	

DEFENDANT’S LITIGATION PLAN & DISCOVERY SCHEDULE

The parties have been unable to agree on a schedule. Defendant, LINA, proposes as follows:

1. Claims.

This is an action for recovery of benefits under 29 U.S.C. § 1132(a)(1)(B) challenging a denial of disability insurance benefits arising under an insurance policy issued and underwritten by Defendant. Plaintiff’s claims are enforceable under the Employee Retirement Income Security Act of 1974 as amended (“ERISA”). Plaintiff has exhausted her administrative remedies. Plaintiff has not asserted any state law claims.

2. Filing of the Administrative Record.

Defendant shall file the administrative record on or before **August 28, 2015**. So that Defendant does not have to redact personal identifiers from numerous documents, **Defendant shall file the administrative record under seal.** Defendant shall provide Plaintiff with a complete and un-redacted paper copy of the administrative record filed with the Court.

3. Joinder and Amendment of Pleadings.

The parties shall have until **January 4, 2016** to join additional parties and/or amend the pleadings.

4. Record, Standard of Review and Discovery Plan.

The parties disagree as to the record, standard of review and discovery plan.

Defendant's position is that the Court is limited to the evidence before the Plan Administrator at the time of the claims determination. Discovery in ERISA matters is limited to issues of bias and is only appropriate where the arbitrary and capricious standard of review is applied. *See Price v. Hartford Life and Acc. Ins. Co.*, 746 F.Supp.2d 860 (E.D. Mich. 2010); *McCollum v. Life Ins. Co. of North America*, 2010 WL 5015394, *2 (E.D. Mich. Dec. 3, 2010). Defendant's position is that should Plaintiff seek to take any discovery as may be allowed in an ERISA action, she shall serve such proposed discovery on or before **November 27, 2015**. Defendant shall: (i) respond to the proposed discovery or (ii) notify Plaintiff in writing that Plaintiff is not entitled to conduct the proposed discovery, or that all or a portion of the proposed discovery is outside the bounds of discovery permitted in a claim seeking the recovery of an ERISA benefit **within 33 days of the date of service of Plaintiff's written discovery**. Should the parties be unable to agree regarding any proposed discovery, Plaintiff shall file any motion concerning the proposed discovery with the Court by no later than **January 26, 2016**. On or before **January 11, 2016**, the parties shall either: (a) stipulate to the standard of review applicable to this action or (b) submit memoranda of points and authorities regarding the standard of review applicable to this action. The parties' memoranda shall not exceed eight (8) pages in length.

5. Dispositive Motions.

Plaintiff is not entitled to a jury trial and this case can be submitted on briefs. Plaintiff shall file her dispositive motion by **April 6, 2016**. Defendant shall file its response by **May 9, 2016**. Plaintiff shall file her reply, if any, by **May 23, 2016**.

6. Settlement Conference.

LINA is willing to endeavor to discuss settlement directly, including using a private mediator as necessary.

Respectfully submitted,

s/Walter M. Jones

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 23rd day of July, 2015, the foregoing Litigation Plan was filed with the Clerk using the Court's CM/ECF system which will send a notice of electronic filing to:

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s/Walter M. Jones
***One of Counsel for Defendant, Life Insurance
Company of North America***